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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,315	08/23/2006	Dyna Kellie Predebon	A-10172	8142
20741	7590	10/16/2009		EXAMINER
HOFTMAN WASSON & GITLER, P.C.			LUGO, CARLOS	
CRYSTAL CENTER 2, SUITE 522			ART UNIT	PAPER NUMBER
2461 SOUTH CLARK STREET			3673	
ARLINGTON, VA 22202-3843				
			MAIL DATE	DELIVERY MODE
			10/16/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/590,315 Examiner CARLOS LUGO	PREDEBON, DYNA KELLIE Art Unit 3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 17 September 2009.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1,2 and 10-14 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1,2 and 10 is/are allowed.
- 6) Claim(s) 11-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 June 2008 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. This Office Action is in response to applicant's supplemental amendment filed on September 17, 2009 and interview on July 20, 2009.

### *Claim Objections*

2. **Claim 11 is objected** to because of the following informalities:

- Claim 11 Line 6, change "said second arm member adapted to be supported by a door handle" to -said second arm member adapted to be supported by the other door handle -.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 11-14 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,004,279 to Radcliff in view of US Pat No 5,288,257 to Zacherl and further in view of US Pat No 5,291,631 to Schjoneman.

Radcliff discloses a door stay for a door having a handle (3 and 5) on each side of the door (1). The door is associated with a door frame, and wherein the door is contained within the door frame when the door is closed.

The door stay comprises a first arm member, a second arm member, and a body intermediate said first and second arm members (see attachment #1).

The first arm member is adapted to be supported by a door handle (5) on one side of the door. The second arm member is adapted to be supported by the other door handle (3) on the other side of the door. The first arm member and the second arm member are provided with openings (17 and 19) through which the door handle handles can pass to attach the respective arm members to the door handle.

The openings are elasticized to enable the openings to be enlarged such that the handles can pass through each opening. The arms suspend the body so that the body is adapted to extend over an edge of the door.

However, Radcliff fails to disclose that a toy comprises the first, second and intermediate parts. Radcliff discloses a device comprising the elements without the ornamental part (the toy).

Zacherl teaches that it is well known in the art to provide a door closing device that comprises a toy (10) having a first and a second part (14) adapted to preclude a door from closing to a point at which the door is contained within a door frame.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device by Radcliff with a toy, as taught by Zacherl, because is considered as a design consideration since the toy is considered as a mere ornament.

With respect to the fact that the intermediate portion extends over the edge of the door to preclude the door from closing to a point at which the door is contained within the door frame, Radcliff device is capable of preventing the door to be contained within the door frame.

Radcliff discloses that the door may be closed within the door frame; not that is required. Further, as shown in Col. 2 Lines 35-50, first, in order to put the door within the door frame is required a significant force because of the friction exerted between the intermediate portion 11 and the door frame. In other words, is not easy to move the door within the door frame. Also, Radcliff cites that the chamber 14 of the body 11 is filled with stuffing 23. One of ordinary skill in the art could place sufficient stuffing into the chamber of member 11; enough to don't allow the door within the door frame. Therefore, Radcliff is capable of preventing the door to be contained within the door frame.

Nevertheless, Schjoneman teaches a similar device (12, 14 and 16), wherein the intermediate portion will preclude a door from closing to a point at which the door is contained within a door frame.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the intermediate portion described by Radcliff to preclude the door to be contained within the door jamb, as taught by Schjoneman, in order to prevent any accident.

***Allowable Subject Matter***

**5. Claims 1, 2 and 10 are allowed.**

***Response to Arguments***

6. Applicant's arguments filed September 17, 2009 have been fully considered but they are not persuasive. Therefore, the rejection to claims 11-14 are maintained.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR

only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/  
Primary Examiner  
Art Unit 3673

October 14, 2009.